

“FELONY EXPUNGEMENT” FORMS PACKET

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814
EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941
NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6695
SOUTH COUNTY DIVISION, 500 THIRD AVE., CHULA VISTA, CA 91910-5649

**GENERAL INFORMATION FOR PETITIONS FOR RELIEF UNDER PC1203.4 AND PC1203.4a
FELONIES**

Eligibility	Statute	The following are requirements of Penal Code Section 1203.4 or 1203.4a :
	PC1203.4	If probation was <u>granted</u> , Defendant may be eligible for relief if the conditions of probation for the entire period of probation have been fulfilled, OR Defendant has been discharged from probation, AND: <ul style="list-style-type: none"> ▶ Defendant is not now serving a sentence for any offense, AND ▶ Defendant is not now on probation for any offense, AND ▶ Defendant is not now charged with committing any offense.
	PC1203.4a	If probation was <u>not granted</u> , and more than one (1) year has elapsed since the date of sentencing, Defendant may be eligible for relief if: <ul style="list-style-type: none"> ▶ Defendant has fully complied with and performed the sentence of the court, AND ▶ Defendant is not now serving a sentence for any offense, AND ▶ Defendant is not now charged with committing any offense.
	Ineligible Violations	Pursuant to PC1203.4(b), defendants are ineligible to seek relief under PC1203.4/PC1203.4a for convictions of violating any of the following sections: <ul style="list-style-type: none"> ▶ VC2800 ▶ VC2803 ▶ PC286(c) ▶ PC288a(c) ▶ PC289(j) ▶ VC2801 ▶ PC261.5(d) ▶ PC288 ▶ PC288.5 ▶ Any infraction violation
	Case Status	The case must be an ADJUDICATED MATTER. This means that the defendant has either entered a plea of guilty or no contest, or a guilty verdict was entered, and the defendant was sentenced. The following case dispositions are not eligible for relief: <ul style="list-style-type: none"> ▶ The charge(s) were dismissed upon completion of PC1000 diversion. ▶ Bail was forfeited and a plea was never entered. ▶ The case has previously been dismissed.
Application	Location	The petition for relief must be filed in the court in which the matter was adjudicated.
	Form	Court policy requires the filing of the "Petition For Relief Pursuant To PC1203.4/1203.4a" for all applications for relief. Multiple case numbers for the same defendant must be placed on a separate petition with an administrative fee per petition filed.
	Admin. Fee	You may be required to reimburse the Court a \$120 Administrative fee for the costs incurred in processing each petition. Indigent defendants may apply for a fee waiver by filing the "Application For Waiver Of Court Fees And Costs" and an "Order On Application For Waiver Of Court Fees And Costs".
	Supporting Documents	Documents in support of the petition must be submitted if the petition is one that may only be granted in the interest of justice and at the discretion of the reviewing judge.
	Notice to the Prosecuting Agency	Pursuant to PC1203.4(d), the appropriate prosecuting agency must be given fifteen (15) calendar days notice of the filing of the petition to allow time for the filing of an optional objection to the petition. Petitions filed must be served on the prosecuting agency.
	Records Check	The information provided in the petition will be verified by a records check.
	Notice of Hearing	As a general rule, hearings will be set at least 21 calendar days after the date of filing of the petition to allow time for the Probation Department's records check. The hearing date and time will be set by the clerks when the petition is filed.
	Certificate of Rehabilitation and Pardon	Pursuant to PC4852.21(b), the Court's grant of dismissal of the accusatory pleading pursuant to PC1203.4 or PC1203.4a may allow the Defendant the right to petition for a Certificate of Rehabilitation and Pardon. Attached is an information sheet.
Older Records	Since Government Code Section 68152 allows that court records be destroyed after ten (10) years, the court may not be able to process a petition filed more than ten years after a case has been adjudicated, unless documentation of the appropriate court records can be provided. The following documentation is acceptable: <ul style="list-style-type: none"> ▶ Certified copies of the complaint, conviction, and clerk's minutes in the case. ▶ A Department of Justice abstract of the defendant's criminal history, which may be obtained by contacting: Department of Justice – Records Review Unit Telephone: 1-(800)-952-5225 P.O. Box 903417 E-mail: http://caag.state.ca.us Sacramento, CA 94203-4170 	
Granting of the Petition	The relief granted by PC1203.4 or PC1203.4a does NOT seal, destroy, or remove any entries from the court, law enforcement or Department of Justice records, but is a dismissal of the charges and convictions. Upon the granting of the petition, a notation will be entered on the record that relief was granted pursuant to this statute. The Department of Motor Vehicles shall still consider the conviction for purposes of revocation or suspension of the driving privilege pursuant to Vehicle Code Section 13555.	

PETITIONER OR ATTORNEY FOR PETITIONER (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.(Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		(FOR COURT USE ONLY)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input type="checkbox"/> NORTH COUNTY DIVISION 325 S. MELROSE DR., VISTA, CA 92081-6695 <input type="checkbox"/> EAST COUNTY DIVISION 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> SOUTH COUNTY DIVISION 500 3RD AVE., CHULA VISTA, CA 91910-5649		
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT		COURT CASE NUMBER
PETITION FOR RELIEF (PC1203.4 & 1203.4a)		CITY/DISTRICT ATTORNEY NUMBER

TO: ☐ CITY ATTORNEY OF SAN DIEGO
☐ DISTRICT ATTORNEY, COUNTY OF SAN DIEGO

PETITION

Pursuant to Penal Code 1203.4/1203.4a defendant requests that the Court set aside the conviction herein, enter a plea of not guilty, and order the charge(s) dismissed.

STATEMENT OF FACTS

Defendant's date of birth: _____

Defendant was convicted on _____ of the following charges: _____

Probation was ☐ NOT granted ☐ granted by the court for a period of _____ years and ended on _____

Defendant is entitled to the relief requested based on the following:

- ☐ Defendant has fulfilled the conditions of probation for the entire period of probation,
OR
☐ Defendant has been granted early termination of probation **AND**

- (1) Is not now serving a sentence on any offense,
- (2) Is not on probation for any offense, and
- (3) Is not now charged with committing any offense.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____ at _____ by _____
(City) (State) Petitioner / Attorney for Petitioner

NOTICE OF HEARING

The defendant's petition will be heard on _____ at _____ in Dept. _____

Clerk, by _____, Deputy

Distribution by: _____ on _____ to ☐ Prosecutor – Courtesy Copy ☐ Probation

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GENERAL INFORMATION FOR PETITIONS FOR CERTIFICATE OF REHABILITATION PURSUANT TO PC4852.01

The granting of a certificate of rehabilitation restores to the applicant some of the rights of citizenship which were forfeited as a result of a felony conviction. Relief pursuant to PC1203.4 must be obtained prior to applying for a Certificate of Rehabilitation.

Purpose	Does	<input type="checkbox"/> Relieve specified sex offenders of further duty to register. [PC290.5 (a)] <input type="checkbox"/> Enhance an ex-felon's potential for becoming licensed by state boards. (PC4853) <input type="checkbox"/> Serve as an official document to demonstrate an ex-felon's rehabilitation, which could enhance employment possibilities. <input type="checkbox"/> Serve as an automatic application for a pardon.
	Does not	<input type="checkbox"/> Erase the felony conviction or seal the criminal record. (PC4852.17) <input type="checkbox"/> Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense. <input type="checkbox"/> Allow an ex-felon to answer on employment applications that he/she has no record of conviction. <input type="checkbox"/> Give an ex-felon the right to vote. This right is automatically restored after termination from probation or discharge from parole.
Eligibility Criteria	<p>Persons who are eligible to apply for a Certificate of Rehabilitation include those who:</p> <ol style="list-style-type: none"> Were convicted of a felony and served the sentence in a California state prison; and <ul style="list-style-type: none"> <input type="checkbox"/> Were discharged on completion of the term or released on parole prior to May 13, 1943; and <input type="checkbox"/> Present satisfactory evidence of three years residence in California immediately prior to the filing of the petition. <p>OR</p> <ol style="list-style-type: none"> Were convicted of a felony or a misdemeanor sex offense specified in Penal Code section 290, the accusatory pleading of which was dismissed pursuant to Penal Code section 1203.4; and <ul style="list-style-type: none"> <input type="checkbox"/> Have been discharged or released from custody on probation; and <input type="checkbox"/> Have not been incarcerated in any penal institution, jail or agency since the dismissal of the accusatory pleading; and <input type="checkbox"/> Are not on probation for the commission of any other felony; and <input type="checkbox"/> Present satisfactory evidence of five years residence in California immediately prior to the filing of the petition. <p>OR</p> <ol style="list-style-type: none"> Were convicted of a felony on or after May 13, 1943; and <ul style="list-style-type: none"> <input type="checkbox"/> Were sentenced to state prison or another institution or agency; and <input type="checkbox"/> Were discharged from custody or released on parole; and <input type="checkbox"/> Present satisfactory evidence of five years residence in California immediately prior to the 	
Ineligibility Criteria	<p>Persons who are ineligible to apply for a Certificate of Rehabilitation include those who do not meet the above eligibility criteria and those who were/are:</p> <ol style="list-style-type: none"> Convicted only of misdemeanors (except those convicted of a misdemeanor sex offense specified in Penal Code section 290, which was dismissed pursuant to Penal Code section 1203.4). Convicted of Penal Code sections 286 (c), 288, 288a (c), 288.5, or 289(j). Serving a mandatory life parole. Committed to prison under a death sentence. In the military service. 	
How to apply	A Certificate of Rehabilitation & Pardon instruction packet may be obtained from this court.	

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GENERAL INFORMATION FOR AN APPLICATION FOR A PARDON PURSUANT TO PC4853

Any person who has been convicted in California of a felony or a misdemeanor sex offense specified in PC290, the accusatory pleading of which has been dismissed pursuant to PC1203.4, may apply to the Governor for a pardon. The granting of a pardon restores to the applicant some of the rights of citizenship which were forfeited as a result of a felony conviction. Application for a pardon may be made either by way of an application for a Certificate of Rehabilitation, or through a direct traditional pardon application.

Purpose	Does	<ul style="list-style-type: none"><input type="checkbox"/> Allow an ex-felon to serve on a jury. [CP 203(a)(5)]<input type="checkbox"/> Allow restoration of firearm right, with federal approval, to specified offenders if granted a full and unconditional pardon, unless the conviction was for a felony involving the use of a dangerous weapon. (PC4854)<input type="checkbox"/> Allow an ex-felon to be considered for appointment as a county probation officer or state parole agent, but not to any other peace officer positions. (GC 1029)<input type="checkbox"/> Allow specified sex offenders still required to register after obtaining a Certificate of Rehabilitation to be relieved of duty to register if granted a full pardon. [PC290.5(b)(1)]
	Does not	<ul style="list-style-type: none"><input type="checkbox"/> Seal or erase the record of conviction. (PC4852.17)<input type="checkbox"/> Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense.<input type="checkbox"/> Allow a pardoned person to answer on employment applications that he/she has no record of conviction.<input type="checkbox"/> Restore ability to own a firearm to ex-felons convicted of any offense involving the use of a dangerous weapon. (PC4854)<input type="checkbox"/> Pardon convictions from another state, or federal convictions.
Traditional Pardon	The traditional pardon procedure (covered by PC 4800-4813) is available to those persons who are ineligible to petition for a Certificate of Rehabilitation. This procedure is used primarily, although not exclusively, by California ex-felons who reside out-of-state and are therefore unable to satisfy the residency requirement. The traditional pardon procedure is also available to those individuals who have convictions for PC286(c), 288, 288a (c), 288.5, and 289(j).	
How to apply	A Certificate of Rehabilitation & Pardon instruction packet may be obtained from this court.	